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No. 98-1464

Supreme Court of the United States
October Term, 1998

JANET RENO, *ATTORNEY GENERAL OF THE UNITED STATES, Petitioner,*

-versus-

CHARLIE CONDON, *ATTORNEY GENERAL OF SOUTH CAROLINA, Respondent.*

On Writ of Certiorari to the US Court of Appeals, for the Fourth Circuit

BRIEF OF AMICI CURIAE IN SUPPORT OF THE UNITED STATES:

SCREEN ACTORS GUILD
RICHARD MASUR, PRESIDENT
GAVIN DE BECKER
CONGRESSMAN JAMES P. MORAN
ESTATE OF JOHN BRITTON, M.D.

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QUESTIONS PRESENTED

Amici present these Questions as appropriate for resolving this case, and encompassed by the grant of certiorari.

I. Whether Congress, Under the Commerce Clause, May Protect Citizens from Unconsented Disclosure of Private Identifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Facilitates Stalking, Threats, and Harassment?

II. Whether Congress, Under the Privileges and Immunities Safeguards, May Protect Citizens from Unconsented Disclosure of Private dentifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Impedes the Exercise of Rights of Citizenship?

III. Whether Congress, Under Section 5, Amendment XIV, May Protect Citizens from Unconsented Disclosure of Private Identifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Facilitates Deprivations of Recognized Life, Liberty, and Privacy Interests?

AMICI CURIAE ON THE BRIEF

These friends of the Court are individuals and organizations interested in protecting the invaluable safety, security, lives, and privacy of Americans through the national Drivers' Privacy Protection Act, 18 USC §2721, {DPPA} at issue, additional federal and State privacy legislation, and other lawful means:

The Screen Actors Guild is interested in the privacy and safety of members, and all citizens. While public officials often have special laws shielding their private information from public disclosure, other high profile individuals are always at risk. The avoidable early death of actress Rebecca Schaeffer is but one example among many.

Amicus Gavin de Becker is a national authority and consultant on security and prevention of violence. He is the author of THE GIFT OF FEAR, cited in the brief.

Congressman James P. Moran was principal sponsor in the House of the Act of Congress at issue. He is quoted in the brief.

The Estate of John Britton has authorized amicus participation. On August 6, 1993, stalkers copied Dr Britton's license plate outside of Pensacola, Florida. They identified him and issued a "wanted poster" with his

addresses, phone numbers, and other identifying information. One Paul Hill subsequently tracked Dr Britton and shot him in the head. *See* J Risen & J Thomas, WRATH OF ANGELS pp 349, 362-64 (1998).

The DPPA legislation also received support from the following organizations as it passed through Congress:

American Medical Ass'n, Cong Rec S15764 (11/16/93);
American Insurance Ass'n, *Id*;
Consumer Federation of America, *Id*; and
Fraternal Order of Police, *Id*.

{Notes per S Ct Rule 37:

Both the United States and the State of South Carolina consented in writing to the filing of this brief of amici curiae.

Counsel Lucas prepared the brief in its entirety in Bookman Old Style font on Word 97/Windows 98, as a *pro bono* project of the unincorporated association "Private Citizen," an entity interested in securing the privacy and security of all Americans and their families.}

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STATEMENT OF THE CASE

The path to this legislation began when an unknown person clandestinely copied the vehicle license plate of a stranger. The copier took the plate number to a State DMV, or an Internet source such as CompuServe or TML, paid a fee, and received in return the name, address, SSN, description, and other data on the unsuspecting vehicle owner. This transformed the plate into a *de facto* billboard. Unwanted contact and harassment ensued.

The DMV and Internet provider feigned innocence, when confronted about the chain of escalating events. Such providers, however, are indispensable links in the disclosure, stalking, and violence. *See* J Rothfeder, PRIVACY FOR SALE (1992).

After highly publicized slayings, and stabbings, facilitated by unconsented DMV disclosures, Congress became concerned. The Rebecca Schaeffer murder heightened public awareness. Cong Rec S15761-65 (11/16/93), H2522-24 (4/20/94).

The pattern has been widespread. It burdens commerce, individual lives, personal safety, security, and privacy. The nonprofit National Victim Center "estimates that up to two hundred thousand people are being stalked in this country at any moment, and that one out of every twenty women will be the target of a stalker at some point in her life." John Douglas, OBSESSION p 224

(1998). Congress ultimately passed DPPA, as 18 USC §§2721-2725, effective 9/97.

Mass marketers, intrusive-niche Internet special interests, and a few States dissented. Prior to DPPA, for example, the New York DMV grossed $17 million in one year from trafficking in vehicle/driver records. Statement of J Goldman to Congress. 1994 WL 212813 (2/3/94).

Congressional history is informative. As Virginia Representative James Moran stated to the House, "[v]ery few people realize that anybody can write down the license plate number of your spouse and daughter and find out where they live and their name and their social security number ...." Cong Rec H2522 (4/20/94). Stalkers could, with DMV and Internet complicity, breach personal security in 34 States before DPPA.

Senator John Warner co-sponsored the bill "to protect the privacy and safety of all Americans — not just the VIP's with special clout." Cong Rec S15763 (11/16/93).

Senators Boxer and Harkin told of burglary gangs that targeted expensive cars, using license plates and DMVs as silent well-paid accessories. *Id* at S15762, S15766.

Prior to DPPA, sophisticated felons with laptop computers could orchestrate a crime wave from the parking lot of an upper echelon restaurant. Some DMVs place names, addresses, and often telephone numbers, Online, for anyone with a PC/ modem.

One serial killer in Maryland was able to identify female victims entering restaurants, run a quick license plate check, page them {"Your lights are on!"}, then abduct, handcuff, and assault. Five license plates. Five women dead. *See* John Douglas, MIND HUNTER p 28 (1995).

Major clinical studies suggest that "an estimated 1 million adult women and 0.4 million adult men are stalked annually in the United States." J Reid Meloy, PhD (ed), PSYCHOLOGY OF STALKING: Clinical and Forensic Perspectives p 3 (1998). *Cyberstalking* is a dangerous growth industry with major negative impact on citizens' lives, safety, and privacy. *Id* at p 10.

Not all stalkers are so benign as the person who sought "... owners ... she claimed were stealing the fillings from her teeth at night." Cong Rec H2522 (4/20/94). Others are violence-prone, afflicted with obsessive-compulsive and manic depressive disorders. Meloy, *supra,* is an entire clinical text on the subject. Stalkers assault a measurable, finite number of citizens annually through license plate tracking. DPPA is one vital legislative step toward reducing this tragic statistic.

Amici, as citizens, respectfully urge the Court to uphold Congress, the Solicitor General, the Seventh, and the Tenth Circuits. Amici offer further compelling constitutional reasons for reversal.

ARGUMENT

I. Congress May, Under the Commerce Clause, Protect Citizens from Unconsented Disclosure of Private Identifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Facilitates Stalking, Threats to Life & Security, and Harassment.

DPPA & Commerce

Amici represent drivers and passengers at risk traveling in interstate commerce. States coercively mandate that all vehicles be registered. Requirements vary, but include involuntary disclosure of personal information such as full name, address, photograph, telephone number, SSN, and identifying physical characteristics.

If disclosure were utilized solely for limited public motor vehicle necessities, a DMV could do little harm. However, State agencies prior to DPPA regularly sold detailed personal profiles without consent, in interstate commerce, to anyone with a scintilla of apparent sanity or legitimacy.

Stalkers can and do compile vast dossiers on targeted classes of strangers. Most notorious are the "Nuremberg Files" of persons in reproductive health care. www.christiangallery.com. The list also targets some members of *this Court*.

It now is mirrored in the Netherlands. www.xs4all.nl/~oracle/nuremberg/gate.html.

The DMV transactions involved here do not relate at all to driver or vehicular safety. Instead, they are DMV revenue enterprises, extracting then selling names and addresses.

Unsuspecting citizens with vehicles are seriously burdened, indeed *set up* to be victims of crime, by this reckless trafficking in their names and addresses. Amici cannot stop driving. Nor can we all be surrounded by Secret Service or US Marshals.

Stalkers and harassers regularly travel in interstate commerce to surveil their victims. The Rebecca Schaeffer killer crossed State lines. The man who repeatedly stabbed Theresa Saldana came all the way from Scotland. *See* Meloy, *supra,* p 26; Gavin DeBecker, GIFT OF FEAR p 290 (1997).

Intelligence gathering by stalkers is greatly facilitated by open access to motor vehicle records. Enterprise DMVs and niche Internet providers regularly trade in that commerce of privacy and security.

Article I, Section 8 of the Constitution empowers Congress to "regulate Commerce ... among the several States ... [and to] make all Laws which shall be necessary and proper for carrying into Execution ... [all] Powers vested by this Constitution ...." The bipartisan proponents of DPPA relied in part

on the commerce clause: "[I]nterstate commerce is severely threatened when mail is used, when people are scared to drive in their cars, when their civil rights are violated, and when they live in fear of being harassed and stalked." Co-sponsor Senator Boxer, Cong Rec S15763 (11/16/93).

That reliance is amply supported in the case law. As Chief Judge Posner has stated: "The boycott of a single opthalmological surgeon was held in *Summit Health v Pinhas,* 500 US 322, 329-30 (1991), to be within the power of Congress to prevent ...." *United States v Soderna,* 82 F3d 1370, 1373 (7th Cir 1996). Here there is much more.

DPPA responds to a fundamentally interstate problem caused by reckless State motor vehicle registration and driver licensure practices. Moreover, DPPA seeks to curtail some interstate trafficking in personal security and privacy, to protect the large class of citizens who must travel and use registered vehicles. All citizens are affected, as are our families and children.

No Tenth Amendment Transgression

Amendment X declares: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

As suggested above, DPPA rests squarely within the regulatory commerce powers delegated to Congress. DPPA is a reasonable step toward protecting drivers, owners, and their families who use vehicles in commerce.

"[T]he Tenth Amendment 'states but a truism that all is retained which has not been surrendered.' *United States v Darby,* 312 US 100, 124 (1941)." *Oklahoma v United States,* 161 F3d 1266, 1269 (10th Cir 1998)(upholding DPPA). It should follow that no Tenth Amendment inquiry arises at all where the regulatory impact on a State is no more than minimally necessary, and States are not mandated to enforce the penalties of the law. Here, as in *Baker,* the "well-supported conclusion that ... [DPPA] has had a *de minimis* impact on the States should end, rather than begin, the Court's constitutional inquiry." *South Carolina v Baker,* 485 US 505, 529 (1988)(Chief Justice Rehnquist, concurring).

However, the Fourth Circuit embarked on a different path, not apparent from the constitutional text or prior decisions of this Court. Amici will address those concerns.

No Conscription of State Agencies

DPPA imposes no more burdens on States than numerous other important national regulations or obligations of nondiscrimination and nonabridgment of

fundamental rights. A law student intern could prepare in short order a minimalist one page DMV form, a simple checklist application for persons seeking DMV record details, consistent with DPPA. Such a form would be far less complex than the daily State agency paperwork necessitated by innumerable federal regulations applied to state agencies, as in *South Carolina v Baker,* 485 US 505 (1988), *EEOC v Wyoming,* 460 US 226 (1983), and *Garcia v San Antonio Metro,* 469 US 528 (1985).

Basic drivers' license applications and emissions tests are much more complex than what DPPA minimally requires. Yet, they are a daily routine. The suggestion that DDPA unreasonably burdens the State DMV cannot withstand reasoned analysis in the context of day-to-day DMV operations. Surely, a minimal federal requirement for a one-page form satisfying DPPA does not seriously undermine federalism or the Tenth Amendment. This minimal federal overlay upon State DMVs, for the sake of commerce and citizen safety, does not impermissibly alter our "constitutional structure ...." *South Carolina v Baker,* 485 US 505, 528 (1988)(Justice Scalia, concurring).

It is no answer to critique DPPA as Swiss cheese, with its general prohibition, followed by fourteen (14) exceptions. Congress may reasonably determine that fourteen exceptions are needed, from tow trucks to

other agency requests, each with different degrees of justification. The information seeker can produce an I.D. and check the applicable boxes without threatening the federal system of the Founders.

No Singling Out of State for Regulation

DPPA was fundamentally misunderstood by the Fourth Circuit suggestion that it impermissibly regulates State agencies and ignores private actors. DPPA reaches *everyone* involved in the licensing, registration, and record dissemination process. This includes DMV staff, record requesters, Internet retailers, and resellers. All enforcement of DPPA is federal. There is no compulsion on a State to establish a regulatory or enforcement mechanism. States may choose to do so to reduce the stalking problem for their own citizens.

Section 2721(a) addresses DMV employees, as well as private independent "contractors," such as CompuServe. Section 2721(c) regulates resale or redisclosure, which do not involve State employees at all, only private entities.

"Additional unlawful acts," §2722, are proscribed when committed by "any person," not just State employees. Federal fines and civil causes of action may accrue against any responsible person, private or public, not only State actors. §§2723, 2724. The known pending private remedy DPPA actions are all

federal. None sue DMVs. Two seek redress from individual stalkers and Internet providers such as CompuServe, Inc., and TML Services, Inc. *See, e.g., AWCC v Raney,* 99-05-CV-ORL (MD Fla, filed 1/4/99); *Manhattan Magnolia Corp v Unterberger,* 99-8164-CV-WPB (SD Fla, filed 3/4/99).

A careful reading of DPPA shows it is evenhanded with the States. DMVs do presently occupy the field of vehicle registration and driver licensure. However, there is much less federal regulation of this State monopoly than with alcohol, tobacco, health, safety, and environmental matters.

Arguments along the above lines by the Fourth and Eleventh Circuits are readily answered and unpersuasive. DPPA does not raise serious, substantial Tenth Amendment concerns. The analyses of the Seventh and Tenth Circuits are far more reasonable, inclusive, and compelling. *Travis v Reno,* 163 F3d 1000 (7th Cir 1998); *Oklahoma v United States,* 161 F3d 1266 (10th Cir 1998).

II. Congress May, Under the Privileges and Immunities Safeguards, Protect Citizens from Unconsented Disclosure of Private Identifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Impedes the Exercise Of Rights Of Citizenship.

Amendment XIV and a century of federal constitutional jurisprudence protect "the privileges or immunities of citizens of the United States ... [and their] life, liberty, or property" as well as the right to "equal protection of the laws." DPPA is appropriate to remedy serious problems that pertain both to commerce & travel, and citizen safety, security & privacy rights.

<u>Privileges, Immunities, Travel & Vehicles</u>

DPPA affects and protects vehicle drivers, passengers, and families. They travel inter- and intrastate, in vehicles that come annually from a major sector of the national and international economy.

States require both vehicle and driver licensure as a condition to motorized travel. States mandate that plates be visible to all, not hidden from potential stalkers. Yet plates are very easy for stalkers to copy, particularly with binoculars or a zoom lens.

Without DPPA protection, plates become a public dossier with directions into the sanctity of every vehicle owner's home.

This kind of State sanctioned exposure to unwanted contact heavily burdens a citizen's right to "... travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement.'" *Saenz v Roe*, — US —, — (1999).

This Court recently revisited the contours of the citizen's right to travel in *Saenz, supra.* That right in several dimensions "is firmly imbedded in our jurisprudence. *United States v Guest,* 383 US 745, 757 (1966), ... [and] 'assertable against private interference as well as governmental action ... a virtually unconditional personal right, guaranteed by the Constitution to us all.'" (Slip Op at 8).

Without DPPA enforcement, however, citizens in 34 States could not drive registered vehicles without risking that a stalker could copy their plates, and do harm. The burden on a citizen's interest in travel is substantial and direct. It has been in many States a daily Sword of Damocles, particularly for persons being stalked.

Congress may fully protect the privileged right to travel through both the commerce clause and Section 5, Amendment XIV affirmative powers. DPPA may be persuasively sustained on this concurring constitutional ground.

States cannot show a narrowly drawn, compelling justification for broadly disseminating private information coercively derived from license plate and driver's license applications. There is no rational connection to motor vehicle or traffic safety. States have scarcely attempted to justify their practices in the lower courts, relying instead upon the strained Tenth Amendment

argument to maintain this lucrative source of revenue.

The State practices condemned by Congress are not narrowly confined to State motor vehicle and traffic safety issues. Drivers with perfect records and well-inspected cars still are coerced to give up names, addresses, photographs, often telephone numbers, and more, to the casual inquirer at DMV, then to the world.

The class of drivers, and the class of record seekers, moreover, are both far too broad, indeed all encompassing. All drivers could be exposed to inquiries from all record seekers, prior to DPPA, dependent upon shifting State policies. There was no focus on limiting name disclosure to meet vital motor vehicle and safety needs, or anything directly relevant to the purpose of vehicle registration in the first place. A curiosity seeker could readily obtain names and addresses to seek out suspected witches whose plates contained an "X".

The States can put forth only a "virtually non-existent ... public interest in disclosure ...." *Compare United States v FLRA*, 510 US 487 (1994)(Justice Thomas, for the Court).

Nor does any State fiscal interest override that of Congress in protecting the travel privilege. These are not pre-existing State DMV treasury funds. While States may generate many dollars from sweeping unconsented sales of driver mailing lists,

those moneys are not of the State treasury. They derive from a virtual auction of drivers' security and privacy, coercively burdening the citizen's travel privilege itself. The driver must pay for a license plate needed to exercise the travel privilege. Then the State sells the driver's profile to high bidders, for any reason, without consent, discretion, or compensation. The license plate becomes an invitation for stalker access, a set of directions to the vehicle owner's home.

Congress may justify DPPA as appropriate legislation to protect the privilege of interstate vehicular travel from dangerous and intrusive State burdens.

III. Congress May, Under Section 5, Amendment XIV, Protect Citizens from Unconsented Disclosure of Private Identifying Information by State Agencies, Where Such Disclosure Is Not Substantially Related to Legitimate Agency Functions, and Materially Facilitates Deprivations of Recognized Life, Liberty, Security and Privacy Interests.

Life, Liberty, Security & Privacy

Amendment XIV protects not only the travel privilege, but also additional fundamental citizen rights. Congress may support DPPA as a national measure to protect drivers in commerce from

unreasonable risks to their lives, security, and privacy, much like numerous other kinds of highway safety and home privacy measures. DPPA will prevent a measurable number of home invasions, and save drivers' and passengers' lives, perhaps as many as saved by seatbelts and airbags, or even more.

DPPA most assuredly deters stalkers from finding and approaching the private homes of innumerable citizens. Congress may draw on the history cited by Chief Justice Rehnquist to justify that positive legislative purpose: "In 1604, an English court made the now-famous observation that 'the house of everyone is to him as his castle and fortress, as well for his defence against injury and violence, as for his repose.' *Semayne's Case,* 77 Eng Rep. 194, 5 Co. Rep. 91a, 91b, 195 (K.B.)." *Wilson v Layne,* — US —, — (1999)(Slip Op p 5). Unconsented publication of name and address reduces repose and adds unnecessary danger to life and liberty.

Similarly, Congress may ratify the concerns of Justice Kennedy and others that: "Security of the home must be guarded by the law in a world where privacy is diminished by enhanced surveillance and sophisticated communication systems." *Minnesota v Carter,* 142 L Ed 2d 373, 386 (1998)(concurring opinion).

Further, Congress may recognize with DPPA the same kinds of privacy interests protected by FOIA. This encompasses "the

interest that individuals have in preventing at least some unsolicited, unwanted mail ..." [and] " avoiding ... telephone calls or visits, that would follow disclosure." *Compare United States v FLRA,* 510 US 487 (1994)(Justice Thomas, for the Court).

Nothing is unclear or unusual about legislating to protect the security of citizens' homes from public or private invasion. Nor are restrictions on reckless disclosures from ostensibly "public" records inappropriate, where vital citizen interests in life, safety, security and privacy exist.

Record Confidentiality

The closest cases on public record confidentiality and privacy are *United States v Ray,* 502 US 164 (1991), *United States v FLRA,* 510 US (1994), and *Whalen v Roe,* 429 U.S. 589 (1977).

The federal FOIA as construed in *United States v Ray* is instructive. 502 US 164 (1991). Haitians seeking refuge there requested FOIA access to the names of others previously returned. This Court denied that confidential information on privacy grounds.

FOIA Exemption 6 protects "medical files and similar files [to avoid] . . . a clearly unwarranted invasion of privacy." 5 USC §552(b)(6). The Court, per Justice Stevens, found the individuals' "privacy interest ... substantial ...." 502 US at 15: "Disclosure of

. . . identities could subject them or their families to 'embarrassment in their social and community relationships.'" 502 U.S. at 176. Embarrassment is a minor fear in the DPPA stalking context.

Congress has analogous power to protect drivers of vehicles from even more risky State DMV disclosures. A stalker's interest in record access is much weaker than that in *Ray*. Stalkers have no legitimate reason to contact unconsenting drivers, passengers or family. Access actually *creates* a serious safety hazard to citizens.

Paraphrasing this Court in *Ray,* DPPA protects personal information in DMV files to avoid a clearly unwarranted invasion of privacy. That privacy interest, safety and security from strangers, is substantial. Disclosure of identity and address subjects drivers and their families to much more danger than mere social embarrassment.

In line with *Ray,* more recently, this Court protected home addresses from FOIA disclosure in *United States v FLRA,* 510 US 487 (1994). Justice Thomas explained the connection between record disclosure and home security: "We are reluctant to disparage the privacy of the home, which is accorded special consideration in our Constitution, laws, and traditions."

Again, the privacy interest protected by Congress in *FLRA* was not at all so weighty as the case here with DPPA, where safety and

security are at stake, as opposed to unwanted trade union solicitations.

Whalen v Roe, 429 US 589 (1977), also has been applied for over twenty years to protect significant personal interests in medical and compulsory record confidentiality. Important cases in the Circuits applying *Whalen* make up a major body of American privacy law. *E.g., Fadjo v Coon,* 633 F2d 1172, 1175 (5th Cir 1981); *United States v Westinghouse,* 638 F2d 570, 578 (3d Cir 1980); *Greidinger v Davis,* 988 F2d 1344 (4th Cir 1993).

Whalen identified two protected federal constitutional interests: "One is the individual interest in avoiding disclosure of personal matters, and another is the interest in independence in making certain kinds of important decisions." 429 US at 599-600.

Both such interests are unreasonably invaded by State DMVs in identifying and exposing citizens who are compelled to register their vehicles in order to travel freely. Unlike the secure database in *Whalen*, DMV records are a sieve, a storefront for sale. When a citizen travels, s/he is exercising a constitutional right. When moving by vehicle, however, the license plate must be visible. Without DPPA protection, it becomes a dossier for sale by the State. A citizen who travels should not be later confronted by an unpredictable stranger-zealot, writing, calling, or knocking on the

door at night. The license plate, DMV, and Internet niche purveyors combine to make that dangerous assault possible. This intimidating imposition upon citizens is threatening, and an undue burden upon private travel, safety, security, and the sanctity of one's home, castle, and family.

Whalen v Roe applies here to sustain DPPA. The interests asserted by Congress and private citizens through DPPA are stronger than those of that Roe, who had the protection of numerous safeguards. Congress may validly protect both kinds of interests recognized in *Whalen*: non-disclosure, and fundamentally important choices, to travel without fear, to be secure in one's home.

State disclosure interests, by contrast, may be limited to motor vehicle and traffic safety matters without widespread public dissemination. Broad Internet niche and stalker interests are not legitimate at all. They profit by acquiring and reselling an unconsenting individual's privacy and security. This contributes to serious foreseeable danger to many lives.

Whalen Part IV envisions this case. These rights go back to Justice Brandeis' classic statement that "the right to be let alone" is "the right most valued by civilized men [and women]." *Olmstead v United States,* 277 US 438, 478 (1928).

CONCLUSIONS

For the reasons set out this Court should uphold DPPA, 18 USC §§2721-2725, as constitutional, and reverse the judgment of the Fourth Circuit below. The Court should also approve the appropriate dispositions of the Seventh and Tenth Circuits in *Travis v Reno,* 163 F3d 1000 (7th Cir 1998), and *Oklahoma v United States,* 161 F3d 1266 (10th Cir 1998), and disapprove the error of the Eleventh Circuit in *Pryor v Reno,* 171 F3d 1281 (11th Cir 1999).

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PROOF OF SERVICE: Three copies of this Brief of Amici Curiae in Support of the United States have been served by Priority Mail, postage prepaid, sent this 15th day of July, 1999, to both Paul RQ Wolfson, Esq, Assistant to the Solicitor General, Department of Justice, Washington, DC 20530, and to Kenneth P Woodington, Esq, Senior Assistant Attorney General, State of South Carolina, PO Box 11549, Columbia, SC 29211.

By: RL
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